

COLIN M. RUBICH
Assistant U.S. Attorney
U.S. Attorney's Office
James F. Battin U.S. Courthouse
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 657-6101
FAX: (406) 657-6989
E-Mail: Colin.Rubich@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSHUA STANLEY ROBERTS,

Defendant.

CR 18-111-BLG-SPW

OFFER OF PROOF

The United States of America, represented by Assistant United States Attorney Colin M. Rubich, files its offer of proof in anticipation of the change of plea hearing set in this case on February 6, 2019.

THE CHARGE

The defendant, Joshua Stanley Roberts, is charged by Indictment with robbery affecting commerce, in violation of 18 U.S.C. §§ 1951(a) and 2 (Count I); possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A) (Count II); and felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) (Count III).

PLEA AGREEMENT

There is not a plea agreement in this case. Roberts will plead guilty to the indictment without benefit of a written plea agreement. In the government's view, this is the most favorable resolution of this case for the defendant. See *Missouri v. Frye*, 566 U.S. 134 (2012).

ELEMENTS OF THE CHARGE

In order for Roberts to be found guilty of possession of robbery affecting commerce, in violation of 18 U.S.C. §§ 1951(a)(1) and 2, as charged in count I of the Indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly obtained money from Dotty's Casino in Billings;

Second, the defendant did so by means of robbery;

Third, the defendant believed the Dotty's casino employee would part with the money because of the robbery; and

Fourth, the robbery affected interstate commerce.

In order for Roberts to be found guilty of possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A), as charged in count II of the Indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant committed the crime of robbery affecting commerce as charged in count I of the indictment, which is a crime of violence;

Second, the defendant knowingly possessed a firearm; and

Third, the defendant possessed the firearm in furtherance of the crime of robbery affecting commerce.

In order for Roberts to be found guilty of felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), as charged in count III of the Indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed a Taurus, model PT92AFS, 9mm caliber semi-automatic pistol (serial number TF057311);

Second, the firearm had been shipped or transported from one state to another; and

Third, at the time the defendant possessed the firearm, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year.

PENALTY

Count I of the Indictment carries a maximum penalty of 20 years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment. Count II of the indictment carries a mandatory minimum penalty of seven years to life imprisonment, consecutive to any other sentence, a \$250,000 fine, five years of supervised release, and a \$100 special assessment. Count III of the indictment carries a maximum penalty of ten years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On July 27, 2018, Joshua Roberts robbed the Dotty's Casino in Billings at gunpoint. He was able to enter the casino by following another individual who had been buzzed in. Once inside, he pulled out a silver semi-automatic handgun, pointed it at the casino attendant, and demanded the attendant empty the till. He obtained \$516 from the casino.

Later that day, Billings Police Department officers pulled over a car driven by Roberts' ex-girlfriend. Roberts was in the back seat with co-defendant Daniel

Hidalgo. Officers located a Taurus, model PT92AFS, 9mm semi-automatic pistol (serial number TF057311) in the back seat.

An agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives examined the Taurus pistol and determined it was not manufactured in the State of Montana. Therefore, it traveled in or affected interstate commerce before Roberts possessed it.

On November 3, 2008, Roberts was convicted in United States District Court for the District of Montana of felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), which carries a potential term of imprisonment of ten years.

DATED this 30th day of January, 2019.

KURT G. ALME
United States Attorney

/s/ Colin M. Rubich
COLIN M. RUBICH
Assistant U.S. Attorney